



**USAID**  
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# USAID/PERU PRO-INTEGRIDAD

## REPORT ON THE STUDY AND OBSERVATION TOURS TO THE PROSECUTION AND JUDICIAL CRIMINAL OFFICES IN COSTA RICA PRODUCT N° 4I

**November 2014**

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## REPORT ON THE STUDY AND OBSERVATION TOURS TO THE PROSECUTION AND JUDICIAL CRIMINAL OFFICES IN COSTA RICA

### PRODUCT N° 41

<b>Project Name:</b>	<b>Promoting Justice and Integrity in Public Administration (Pro-Integridad)</b>
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## 1. BACKGROUND:

The Criminal Procedure Code – CPC approved by Legislative Decree 957, of July 29, 2004, replaced the written inquisitive model under the 1940 Code of Criminal Procedures with the accusatory model. The Code started implementation progressively throughout the country since July 1, 2006 and as of this date it is in full effect for all crimes in the 23 judicial districts. For official corruption cases and organized crime, the CPC is in effect at the national level. According to the schedule approved by the Special Commission for the Implementation of the CPC, published on March 31, 2014, implementation will finish on April 1<sup>st</sup>, 2016 when it will enter into effect in Lima, Callao, Lima North and Lima South.

The CPC implementation not only substitutes one system for another, but requires a deep transformation of the roles of operators and the optimization of the management models in the judicial and prosecution offices. Peru has experience gained in 23 districts as well as references obtained from Latin American countries which have implemented the criminal procedure reform.

Regarding office management, Costa Rica offers the opportunity to identify best practices and lessons learned that could most likely be adapted to improve the organization and functioning of the courts and prosecution offices in Peru. To that end, USAID's Pro-Integridad Project programmed two study and observation visits to the corporate prosecution and judicial criminal offices in Costa Rica. Both visits fall within Objective 1, Result 1.6 of the Project as follows:

- Objective 1:  
Increase the capacity of the judicial system in Lima, Callao, and Peruvian Amazon regions to resolve corruption cases.
- Result 1.6:  
*Promote the furtherance of good practices and lessons learned in the judicial system to ensure the effective implementation of the Criminal Procedure Code (CPC) for the prosecution of corruption cases.*

This report includes the results of the observation and study visit to the prosecution office, carried out from October 13 to 17, and to the justice office carried out from November 3 to 7 of 2014. Both visits were organized by USAID in coordination with the Office of Protocol and Public Relations of the Judicial Branch in Costa Rica.

## 2. OBJECTIVE:

The objective of the study and observation visits to the prosecution and judicial offices in Costa Rica was to strengthen the participants' knowledge of the organization, functioning and model of the corporate management, as well as the role of the operators in the new criminal procedure system, emphasizing in official corruption, that may allow for best practices to be adapted and implemented in the country as appropriate.

## 3. RESULTS:

Participants obtained the following results:

- Further knowledge on the criminal procedure reform.

- Identify best practices for managing the corporate office model that may be adapted and replicated in the country.
- Establish contacts in the Judicial Branch, Public Ministry, and Public Defense of Costa Rica for future reference and collaboration.

#### 4. PARTICIPANTS:

- Five representatives from the Public Ministry that work with the CPC, especially in official corruption cases, in target zones of Pro-Integridad.
- Five representatives from the Judicial Branch that work with the CPC, especially in official corruption cases, in target zones of Pro-Integridad
- Two representatives of the Technical Secretariat of the Special Commission for Implementation of the CPC – ST-CEICPC.

##### **Public Ministry Representatives:**

Name	Title	District/ Dependency	Email
Víctor Yaipén	Technical Secretary	Technical Secretariat of the CPC	<a href="mailto:vyaipenza@hotmail.com">vyaipenza@hotmail.com</a>
Marco Valdez	Superior Prosecutor at the Fourth Superior Criminal Prosecution Office in Loreto	Loreto	<a href="mailto:mvaldez790@hotmail.com">mvaldez790@hotmail.com</a>
Gustavo Quiroz	Superior Prosecutor National Coordinator Specialized in Official Crimes of Corruption	Nacional	<a href="mailto:guquiva@hotmail.com">guquiva@hotmail.com</a>
María del Carmen Ruiz	Superior Prosecutor Specialized in Official Crimes of Corruption in Lima North	Lima North	<a href="mailto:maricarmen_ruizhurtado@yahoo.com">maricarmen_ruizhurtado@yahoo.com</a>
Alberto Caro	President of the Board of Superior Prosecutors of San Martín	San Martín	<a href="mailto:albertocar@hotmail.com">albertocar@hotmail.com</a>

##### **Judicial Branch Representatives:**

Name	Title	District/ Dependency	Email
Giammpol Taboada	Member of the Executive Council	Executive Council	<a href="mailto:gtp07@hotmail.com">gtp07@hotmail.com</a>
Dante Terrel	President of the Superior Court of Lima North	Lima North	<a href="mailto:dterrel07@hotmail.com">dterrel07@hotmail.com</a>
Octavio Sahuanay	President of the Superior Court of Lima South	Lima South	<a href="mailto:csahuanay@gmail.com">csahuanay@gmail.com</a>
Miguel Castañeda	President of the Court of Appeals for Official Corruption Crimes, Superior Court of Callao	Callao	<a href="mailto:mrcastmoya@hotmail.com">mrcastmoya@hotmail.com</a>
Juan Carlos Paredes	President of the Criminal Court of Appeals of Moyobamba, Superior Court of San Martín	San Martín	<a href="mailto:jcparedesb@hotmail.com">jcparedesb@hotmail.com</a>

##### **Technical Secretariat of the Special Commission for Implementation of the CPC:**

Name	Title	Institution	Email
Carlos Bazo	Coordinator of the ST-CEICPP	Ministry of Justice and Human Rights	<a href="mailto:cbazo@minjus.gob.pe">cbazo@minjus.gob.pe</a>

Vicktor Muenta	Member of the ST-CEI-CPP	Ministry of Justice and Human Rights	<a href="mailto:vmuenta@minjus.gob.pe">vmuenta@minjus.gob.pe</a>
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USAID and Pro-Integridad officers on the visit:

**With Public Ministry and ST-CEICPP representatives:**

Name	Title	Institution	Email
Martín Castro	Project Management Specialist, Office of Democratic Initiatives	USAID/Perú	<a href="mailto:mcastro@usaid.gov">mcastro@usaid.gov</a>
Armando Plazolles	Deputy Chief of Party	Pro-Integridad	<a href="mailto:aplazolles@prointegridad-pe.com">aplazolles@prointegridad-pe.com</a>

**With Judicial Branch and ST-CEICPP representatives:**

Name	Title	Institution	Email
Edith Sicha	Coordinator of CPC implementation	Pro-Integridad	<a href="mailto:esicha@prointegridad-pe.com">esicha@prointegridad-pe.com</a>
Lourdes Rivera-Santander	Coordinator of criminal investigation	Pro-Integridad	<a href="mailto:l.rivera-santander@prointegridad-pe.com">l.rivera-santander@prointegridad-pe.com</a>

## 5. METHODOLOGY:

The visits were coordinated with the Office of Protocol and Public Relations of the Judicial Branch of Costa Rica to offer the participants a space to observe new practices, inter-act with operators, and have group discussions. Activities included:

- Presentations followed by questions and answers.
- Guided visits to prosecution, judicial, and administrative offices.
- Observation of hearings.
- Interview with operators (prosecutors, judges, defenders and administrative staff).

## 6. PROGRAM:

### 6.1. Observation and study visit to the prosecution office:

#### **DAY 1: October 13**

Hour	Activity
8:00	Leave the hotel
8:30	Presentation " <i>Recurso de Apelación de Sentencia</i> " ( <i>Resource of Appeal of the Judgment</i> ) <b>Lic. Patricia Vargas González</b> , Trial Judge and Lawyer of the Third Chamber of the Supreme Court Place: Annex Room – I Judicial Circuit of San José
10:30	Presentation " <i>Proyecto Nacional de Fiscalías Electrónicas – PRONAFE</i> " ( <i>Electronic Prosecution Offices National Project</i> ) <b>Lic. Alexa Gómez Herrera</b> , Officer of the Assistant Management Prosecution of Territorial Prosecution Offices and PRONAFE. Place: Assistant Management Prosecution of Territorial Prosecution Offices – I Judicial Circuit of San José

12:00	Lunch
14:00	<p>Presentation “<i>Uso de las TICS en los despachos fiscales</i>” (<i>Use of ICT in the prosecution offices</i>)</p> <p><b>Lic. Luis Jiménez Fallas</b>, Responsible for the development area, Information Technology Area (IT)</p> <p><b>Lic. Yesenia Azofeifa Villalobos</b>, IT Professional 2 at the IT Department</p> <p><b>Lic. Gary Ramírez Navarro</b>, Judicial Technician 2 at the IT Department</p> <p>Place: Annex Room – I Judicial Circuit of San José</p>
16:30	Return to hotel

## **DAY 2: October 14**

Hour	Activity
8:00	Leave the hotel
8:30	<p>Guided visit to the criminal prosecution office (areas of work), observation and interviews</p> <p><b>Lic. Rocío de la O Díaz</b>, Prosecutor</p> <p><b>Lic. Manuel Gómez Delgado</b>, Assistant Prosecutor I, Assistant Prosecution of Challenges</p> <p>Place: Prosecution offices at I Judicial Circuit of San José</p>
10:30	<p>Observation of the prosecutor’s role in hearings and interviews</p> <p>Place: Hearing Rooms – I Judicial Circuit of San José</p>
12:00	Lunch
14:00	<p>Presentation “<i>Fiscalía de Probidad, Transparencia y Anticorrupción</i>” (<i>Prosecution Office on Probity, Transparency and Anti-Corruption</i>)</p> <p><b>Lic. Juan Carlos Cubillo Miranda</b>, Assistant Prosecutor II of Probity, Transparency and Anti-Corruption</p> <p><b>Lic. Jeffrey Gonzaga Flory</b>, Auxiliary Prosecutor with the Anti-corruption Unit</p> <p>Place: Multiuse Room A – I Judicial Circuit of San José</p>
16:30	Return to hotel

## **DAY 3: October 15**

Hour	Activity
8:00	Leave the hotel
8:30	<p>Visit the Prosecution Office of Flagrancy, observation and interview</p> <p><b>Lic. Rocío de la O Díaz</b>, Prosecutor</p> <p>Lugar: Prosecution Office of Flagrancy of the I Judicial Circuit of San José</p>
10:30	<p>Roundtable “<i>Crimen Organizado, Trata de Personas y Tráfico de Drogas</i>” (<i>Organized Crime, Traffic in Persons and Drug Traffic</i>)</p> <p><b>Lic. Miguel Abarca Rivas</b>, Assistant Prosecutor I, Assistant Prosecution Office against Organized Delinquency</p> <p>Place: Assistant Prosecution Office against Organized Delinquency</p>
12:00	Lunch
14:00	Continuation roundtable with Lic. Miguel Abarca Rivas
16:30	Return to hotel

#### **DAY 4: October 16**

Hour	Activity
8:00	Leave the hotel
8:30	Visit the Criminal Court and Tribunal of Finance, observation and interview <b>Dr. Álvaro Burgos Mazo</b> , Superior Juvenile Judge, Trial Court Judge Place: II Judicial Circuit of San José (Guadalupe)
10:30	Presentation " <i>Procedimiento para los delitos en flagrancia</i> " ( <i>process in flagrancy crimes</i> ) <b>Lic. Mauricio Jiménez Vargas</b> , Flagrancy Court Judge in San José Place: II Judicial Circuit of San José (Guadalupe)
12:30	Return to hotel

#### **DAY 5: October 17**

Hour	Activity
8:00	Leave the hotel
8:30	Presentation " <i>Litigación oral</i> " ( <i>oral litigation</i> ) <b>MSc Alejandro Rojas Aguilar</b> , Deputy Director of the Public Defense of Costa Rica Place: Multiuse Room A – I Judicial Circuit of San José
10:30	Evaluation of the study tour <b>USAID Pro-Integridad Project</b> Place: Multiuse Room A – I Judicial Circuit of San José
12:00	Return to hotel

### **6.2. Study and observation tour of the judicial office:**

#### **DAY 1: November 3**

Hour	Activity
8:00	Leave the hotel
8:30	Presentation " <i>La Tutela Efectiva del Artículo 8.2h de la Convención Americana sobre Derechos Humanos en la Ley de Creación del Recurso de Apelación de Sentencia</i> ". ( <i>Effective Guardianship in Article 8.2h of the American Convention on Human Rights in the Law Creating the Resource of Judgment Appeal</i> ) <b>M.Sc. Edwin Jiménez González</b> , Judge of the Court of Judgment Appeal of the Second Judicial Circuit of San Jose Place: Multiuse Room – I Judicial Circuit of San José
10:30	Presentation " <i>Lógica Procesal del Sistema por Audiencias Latinoamericano</i> ". ( <i>Procedural Logic of the Latin American Hearings System</i> ) <b>Dra. Jenny Quirós Camacho</b> , Coordinator of the Program of Modern Management and Orality Place: Multiuse Room – I Judicial Circuit of San José
12:00	Lunch



14:00	<p>Presentation “<i>Litigación oral: Interpretación de la Ley, Razonamiento Jurídico y Principios Constitucionales</i>” (Oral litigation: Interpretation of the Law, Legal Reasoning and Constitutional Principles)</p> <p><b>MSc Alejandro Rojas Aguilar</b>, Deputy Director of the Public Defense of Costa Rica</p> <p>Place: Multiuse Room – I Judicial Circuit of San José</p>
16:30	Return to hotel

## **DAY 2: November 4**

Hour	Activity
8:00	Leave the hotel
8:30	<p>Presentation “<i>Uso de las ITC en los despachos judiciales</i>” (Use of TICS in the judicial offices)</p> <p><b>Lic. Luis Jiménez Fallas</b>, Coordinator of the Systems Development Area – Judicial Offices Management Area.</p> <p>Place: II Judicial Circuit of San Jose (Guadalupe)</p>
10:30	<p>Presentation “<i>Gestión y Programación de Audiencias</i>” (Hearings Management and Programming)</p> <p><b>Ing. Pablo Roldán Umaña</b>, Member of the Program Modern Management and Orality</p> <p>Place: II Judicial Circuit of San Jose (Guadalupe)</p>
12:00	Lunch
14:00	<p>Presentation “<i>Juzgado Penal Modelo – II Circuito Judicial de San José</i>” (Model Criminal Court – II Judicial Circuit of San Jose) and guided tour</p> <p><b>Lic. Marjorie Valenzuela</b>, Judge Coordinator of the Model Criminal Court</p> <p>Place: II Judicial Circuit of San Jose (Guadalupe)</p>
16:30	Return to hotel

## **DAY 3: November 5**

Hour	Activity
8:00	Leave the hotel
8:30	<p>Initial evaluation of the study tour</p> <p><b>USAID Pro-Integridad Project</b></p> <p>Place: Multiuse Room – I Judicial Circuit of San Jose</p>
10:30	<p>Audience with the President of the Supreme Court of Justice of Costa Rica</p> <p><b>Magistrate Zarela Villanueva Monge</b></p> <p>Place: Office of the Presidency – I Judicial Circuit of San Jose</p>
12:00	Lunch
14:00	<p>Visit the Crimes in Progress Court and interview with the “Crimes in Progress” Judge</p> <p><b>Lic. Nelson Rodríguez Jiménez</b></p> <p>Place: Court Office - II Judicial Circuit of San Jose (Guadalupe)</p>
15:00	<p>Visit the Goicochea Criminal Tribunal of the Treasury, interview with the Trial Judge</p> <p><b>Lic. Hugo Vargas Quirós</b></p> <p>Place: Meeting Room - II Judicial Circuit of San Jose (Guadalupe)</p>

16:30	Return to hotel
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#### **DAY 4: November 6**

Hour	Activity
8:00	Leave the hotel
8:30	Observation of trial hearing Place: Trial Room - I Judicial Circuit of San Jose
10:30	Presentation of the “ <i>Sistema de monitoreo y evaluación</i> ” ( <i>Monitoring and evaluation system</i> ) <b>Lic. Franklin González Morales</b> , Planning Department / Statistics Section Place: Multiuse Room – I Judicial Circuit of San Jose
12:30	Return to hotel

#### **DAY 5: November 7**

Hour	Activity
8:00	Leave the hotel
8:30	Guided tour to the “ <i>Inter-American Court of Human Rights</i> ” <b>Cecilia La Hoz Barrera</b> – Lawyer of the Inter-American Court of Human Rights Place: Avenida 10, Calles 45 y 47 Los Yoses, San Pedro, San José, Costa Rica.
11:00	Final evaluation of the study tour <b>USAID Pro-Integridad Project</b>
12:00	Return to hotel

## **7. DEVELOPMENT OF VISITS:**

### **7.1. Observation and study tour to the prosecution office:**

#### **a. Presentation "Resource of the Judgment Appeal":**

The presentation dealt with the effective guardianship in Article 8.2h of the American Convention on Human Rights in the Law Creating the Resource of Judgment Appeal. The article refers to the judicial guarantee which provides that any person accused of a crime has the right to be presumed innocent until legally proved guilty. Among other guarantees, during the process there is the right to challenge the judgment before a judge of a superior court.

The speaker presented the scope of this article and a brief overview of the evolution of the regime to challenge the criminal judgment in the Costa Rican criminal process, particularly to comply with the American Convention on Human Rights.

#### **b. Presentation “Electronic Prosecution Offices National Project – PRONAFE”:**

According to information from the website of the Judiciary of Costa Rica, PRONAFE is a modernization plan of the Public Ministry, which rises by decision of the Prosecutor General of the Republic No. 27-2012, in order to conform to the criminal justice system without papers and thus offer better service to the public. The overall objective of PRONAFE is to replace the management model on a physical support (paper) for a

more efficient and cost effective electronic model. The specific objectives of PRONAFE are:

- Reduce the use of paper.
- Eliminate the practice of photocopying files and documents.
- Provide quicker processing of criminal investigations.
- Assist in the decongestion of the physical space of the electronic prosecution offices to foster a better working environment.
- Coordinate the electronic prosecution offices with offices from within and outside the Judicial Branch.
- Improve the criminal justice public service.
- Facilitate the process of reducing working of electronic prosecution.
- Implement the standardization of processes in order to maintain uniformity in the electronic case management.
- Keep all prosecution offices informed about the provision of new technological tools implemented in the judiciary.

This Project is currently in effect in five prosecution offices in the country (Guadalupe, Pérez Zeledón, Limón, Cartago and San Carlos) and is being progressively replicated throughout the rest of the country. Note that to implement this manner of work it is necessary to include the courts, so that judges and prosecutors operate under the same logic.

The presentation included testimonials from operators and users who highlight not only the replacement of paper, but fundamentally the greater clarity achieved in the attention of the requests.

c. Presentation “Use of the TICs in prosecution offices”:

The responsible persons spoke about the use of information and communication technologies in the prosecution office. Some topics of interest were:

Virtual desk: This software was developed in order to centralize some processes or functions carried out by the judges (study of files, research information, and electronic signature, among others). It is a parallel system to the management model currently in use in the offices. Its benefits are:

- The file is totally digital, all actions of the plaintiff, defendant and the court, are received and forwarded by the online management system or digitized and incorporated into the Costa Rican Management System of Judicial Offices for its processing.
- Registration of participants, representatives and professionals to the files and means of notification.
- Management of placement, tasks and deadlines to be met by the files in the judicial procedures.
- Consultation of log of user activity in the system.
- The signature of the judges is placed in the document through a Service of electronic signature or digital signature, avoiding the printing of documents.
- Signature of documents that need to be signed by the parts in the files avoiding the use of paper and institutional resources.
- Integration with the notification system. Once the signature process is finished, the documents are sent automatically to the Office of Notifications mailbox to notify the parties.
- Enables flow control on the actions incorporating deadlines, which allow for daily monitoring of the work of judges and clerks. This allows the reduction of procedural time in the judicial office.

On-line management: It is a system whose purpose is to offer the possibility of doing procedures and information retrieval via a Web page, such as sending claims, consulting files, request for corporal constraints, access to all offices, notifications, request appointments for procedures, office schedule and delivery of writings. The online management system allows decentralized services and reduce the number of visitors to judicial offices.

Judicial offices management area: Aims to provide and implement organizational and management mechanisms for the sustained improvement of productivity of judicial offices, supported by specialized computer media. According to the information provided in the Presentation, the Office Management System is implemented in nearly 393 court offices throughout 19 judicial circuits and peripheries. An estimated 60% of judicial offices are currently implemented and around 40% is needed to complete the task.

Case Management System – CMS: The CMS aims to support the management of prosecution and public defense offices through a system tailored for each institution and under technical standards from the Direction of Information Technology of the Judicial Branch.

An issue to be highlighted in the justice system of Costa Rica is that the courts, prosecution offices, public defense and police share the information system and have a unique number for a particular file from the prosecution to the enforcement of the judgment. This is possible due to the constitutional design of the country which provides that the Judicial Branch includes the Public Ministry, Public Defense, and the Judicial Investigation Agency.

d. Guided tour to the criminal prosecution office (work areas), observation and interviews:

Participants toured the areas of work of the prosecution offices of the First Judicial Circuit of San Jose. The visit began at the Quick Step Unit, where users can file their cases orally before specialists who take note of what happened and, if the case merits, immediately brings it to the attention of the auxiliary prosecutor who is in the office, who in turn acknowledges the complaint. If the case requires a different procedure (is not crime or must be filed in another way), the specialists provide needed orientation to the users.

Then a meeting was held with a prosecutor of challenges, whose unit is mainly in charge of cassations (appeals). The organization of the Public Ministry in Costa Rica is that the prosecutor learns about the case during the investigation, is also in charge of the oral trial and of the appeals. This is very positive because there is just one line during the whole process which avoids that the challenge be sustained by a prosecutor without previous knowledge of the case. Another difference is that all the prosecutors from first instance to the appeals are at the same hierarchic level.

The visit also included observing a hearing on fraud with a detainee before the court during which the group could appreciate the role of the participants during witness testimony.

e. Presentation “Prosecution Office on Probity, Transparency and Anti-Corruption”: This part showed the organization and functions of this prosecution office and its legal framework. Some of the most important cases known were presented, such as those of the former Presidents of the Republic Miguel Ángel Rodríguez and Rafael Calderón, and other significant cases that involve high level public officials.

To the question regarding the availability of protocols for the action of the prosecutors, the reply was that there is a manual prepared by Lic. Warner Molina, former prosecutor, but has the character of a guide. The complexity of this matter makes each case a unique one, so it is not convenient to have a protocol but constantly train the prosecutors.

A matter to highlight is the availability of experts to support the prosecutors' work. They are from the Judicial Investigation Agency.

f. Visit the "Crime in Progress" Prosecution Office and Court, observation and interview:

At this point the Peruvian delegation visited the premises of the "crime in progress" prosecution offices of the I Judicial Circuit of San Jose and attended a Presentation on the procedure for "in the act" crimes, general provisions, the assumptions of the act, steps of the process (prosecution procedure, court procedure - initial hearing and proceedings in court - debate) and the roles of operators. An initial hearing was also attended by the group in the court of *flagrante delicto*. Participants stressed that in Peru the CPC provides immediate process under certain conditions, a matter that would be necessary to analyze and encourage from the CEICPP.

g. Roundtable "Organized Crime, Traffic in Persons and Drug Traffic":

This part presented the context in which organized crime in Costa Rica is given as well as the legal framework, organization and functions of the Assistant Prosecutor Against Organized Crime. In Costa Rica, this prosecution office is concerned with offenses relating to organized crime, drug trafficking and human trafficking. This is because in this country 80% of organized crime has to do with drug trafficking. However, one limitation is that there are no specialized courts, so the competence is assigned generally to criminal judges.

During the roundtable, the main investigation tools of this prosecution office were analyzed, including the interception of communications, undercover agent, informants and collaborators, controlled deliveries and financial research.

A topic discussed at the meeting was the relationship between prosecutors and police. In Costa Rica there is a circular notification issued by the Prosecutor General and the Head of the Judicial Investigation Agency that sets forth the grades of functional direction of the prosecutor as lead of the investigation. Within a justice system in which both institutions belong to the Judicial Branch, this directive and work procedures facilitate coordination of work between police and prosecutors.

The CEIPP in Peru has been the forum that allowed the elaboration of a joint work protocol between the National Police of Peru and the Public Ministry, and is part of the Criminal Procedure Reform Consolidation Plan approved by Supreme Decree N° 003-2014-JUS. The opinion of the participants in the tour is that it is necessary to implement this instrument.

h. Visit the Criminal Court and Tribunal of Finance, observation and interview:

The tour participants attended a judgment appeal hearing in the Criminal Court of Finance of the II Judicial Circuit of San Jose (Guadalupe) that deals with crimes of official corruption. Note that this office works with digital file in prosecution offices and courts (paperless, digital signatures and videoconferencing). The judge who was in charge of this meeting highlighted the contribution of ICT in the judicial and prosecution office, but without replacing the role of the judge, the prosecutor and the members of

the office. In that sense, he believes that technology is a tool, but does not replace the people's criteria.

i. Presentation "Oral Litigation":

The speaker presented the general organization of the Public Defense in Costa Rica, which belongs to the Judicial Branch, as well as the way of work of the public defenders, especially the strategies they use in the oral trial phase to persuade the judges.

MSc Rojas highlighted as key factor of the criminal procedure reform is the training provided to the participants who must work under an accusatory model.



Participants in the observation and study tour to the prosecution office. From left to right: Martín Castro, Víctor Valdez, María del Carmen Ruiz, Gustavo Quiroz, Carlos Bazo, Víctor Yaipén and Alberto Caro.



Work meeting with Lic. Manuel Gómez, Assistant Prosecutor I in the Assistant Prosecution Office of Challenges of the I Judicial Circuit of San Jose.



Presentation on the Prosecution Office for Probity, Transparency and Anti-Corruption by Lic. Jeffrey Gonzaga, Auxiliary Prosecutor at the Anti-Corruption Unit.



Presentation on the “crimes in progress” procedure by Lic. Mauricio Jiménez, Judge of the “Crimes in Progress” Tribunal of the II Judicial Circuit of San Jose (Guadalupe).

## **7.2. Observation and study tour to the judicial office:**

### **a. Presentation "Resource of Judgment Appeal":**

The presentation dealt with the effective guardianship in Article 8.2h of the American Convention on Human Rights in the Law Creating the Resource of Judgment Appeal referred to the judicial guarantees of presumption of innocence until legally proved guilty, and the right to appeal the judgment before a judge or a superior court.

The speaker presented the historical-legal importance of the judgment “Herrera Ulloa vs. the State of Costa Rica” when the Inter-American Court of Human Rights expresses the right to appeal a criminal conviction to a different judge and of higher grade, where the "*ne bis in idem*" principle (the same integration judges cannot speak twice on the same subject once a resource is filed) is guaranteed, which forced and granted Costa Rica a reasonable period to adapt their national legislation to Article 8, inc. 2h of the American Convention, enabling the enactment of the Law Creating the Judgment Appeal Resource in the Costa Rican legislation.

### **b. Presentation “Procedural Logic of the Latin American Hearings System”:**

The Modern Management and Oral Program arises from the need to promote the implementation and improvement of a criminal justice system by hearings, through an Institutional change monitoring system to strengthen the good practices in the conduct of hearings and oral, aimed at the clarity of the justice service. Among the achievements of the program are:

- Oral/verbal presentation
- Immediate response.
- Simplification and elimination of unnecessary procedures.
- Continuous improvement.
- Paperless processes.
- Team work.
- Use of technology.

### **c. Presentation “Oral litigation: Interpretation of the Law, Legal Reasoning and Constitutional Principles”:**

The presentation emphasized in the accusatory process with access to justice, in which the judicial rulings and orders are delivered directly from the judge during a hearing mainly based on verbal communication. In addition, there is a right to be heard.

Additionally, the speaker addressed similar issues as those of the visit from representatives of the Public Ministry (number 7.1.9 of this report).

d. Presentation “Use of Information and Communication Technology - ICT in the judicial offices”:

The applications in use for the judicial file oriented to the judicial user and the citizen were presented.

To the judicial user: Information sent to the judicial office.

- Management System.
- Virtual Desk.
- Electronic Vote and Plenary Court.
- SIGMA: statistical report and indicators.
- Audio and Video.
- Single Agenda: marking of hearings.
- Case Management.
- Judicial Archive.

To the citizen: Information sent from the judicial office towards the citizen.

- Notifications.
- Summons.
- On-line Management: inspection of files and view notifications.
- Mobile App: inspection of files.

The use of technology was developed within the framework of a new form of access to justice with electronic courts and more reliable statistical information, by means of using the judicial office management system.

e. Presentation: “Hearings Management and Programming”:

The speaker indicated that the trials are fully programmed, not by sessions (e.g. “*mark the trial for Monday November 11 at 08:30 hours to Wednesday November 13 at 16:00 hours*”), and the estimated duration depends on the number of actions that must be done (witness testimonies, experts, accused, victims, documental evidence, etc.). They have in place an electronic system of single agenda. The programming and preparation of the hearing is under the responsibility of a processing judge different from the trial judge. As a general rule, the trials must end no later than 10 days after the process starts.

The use of the agenda and registration of sessions, rescheduling, continuations, etc., were also featured. In order for the monitoring and measurement of performance system to work, it depends on the quality of information recorded.

f. Presentation “Model Criminal Court – II Judicial Circuit of San Jose” and guided tour:

Members of the court offered a presentation and a guided tour on the operation of the Model Criminal Court located in the II Judicial Circuit of San Jose - Guadalupe. This court is comprised of 14 judges, who know about the processes at the preparatory and middle stage, under a scheme of teamwork at judicial technicians and judges level, with a judge coordinator in charge of evaluating the management of the judicial office and is responsible for the handling of proceedings for crimes against public administration with nationwide jurisdiction. The office has the following areas:

- Attention to user.
- Reception and digitalizing documents.
- Team of preventive measures.
- Team of preparatory stage.
- Team of intermediate stage.



During the tour, the group observed the use of technology for electronic summons and notifications, as well as access of parties to review and read the virtual file through their cellphones. These factors influence the number of people required in work areas. Paradigm shifts have also highlighted the understanding that the administration of justice is not a power but a public service. It works according to the user as a centerpiece of the administration of justice.

g. Meeting with the President of the Supreme Court of Justice of Costa Rica, Mag. Zarela Villanueva:

Mag. Zarela Villanueva expressed her satisfaction with the visit and highlighted the efforts being made by the Judiciary of Costa Rica to improve the service of justice. The fact that the judiciary includes the Public Ministry, Public Defender and Judicial Investigation in the same institution facilitates inter-institutional coordination under the same government policy. She also said that other institutional interests include transparency of information to the public, to avoid corruption.

h. Interview with "Crimes in Progress" Judge:

The magistrate in charge said that the procedure to judge the crimes of flagrante delicto is fast, lasts up to 15 days, working 24 hours a day, allowing strengthening the criminal justice system for the benefit of citizens and inter-institutional coordination (Judicial Investigation Agency, Public Ministry, Judiciary and Public Defense). Note that judicial officers have a shift system for the preliminary hearings. However, she also noted that there are some critics of this procedure, which is sometimes described as a "factory of convictions".

i. Interview with the Judge at the Criminal Tribunal of the Treasury and Public Operations:

The speaker explained the stages in the process and the hierarchy levels of the Judiciary in criminal matters, which are the following:

- Guarantee Judge or Criminal Judge from the preparatory to intermediate stage where prosecution assessment (charge or discharge), precautionary measures, alternative solutions, incidents, among other, develop.
- Trial Judge, whether unipersonal (for crimes with imprisonment of up to five years) or referee (for crimes with imprisonment of over 5 years), which issues judgment.
- Judgment Appeal Court.
- Court of Review.
- Supreme Criminal Chamber.

j. Observation of Trial Hearing:

The participants attended a criminal hearing where they could observe the role of the justice operators and their physical location in the room (judges, prosecutor and defense), the oral debate, the timing for the procedural parts' interventions, the use of technological tools such as audio and video to record the hearing, as well as the broadness and characteristics of the physical spaces of the hearing rooms and the area for witnesses. During the conduction of the hearing, the criminal tribunal was assisted by a judicial clerk.

k. Evaluation and Monitoring System:

The SIGMA monitoring and evaluation system that allows for statistical reports and management indicators was presented. This system has templates with instructions for

an adequate recording of data. It is important to record all the judges' procedural acts in order to view his management and production.



Meeting with the President of the Judicial Branch of Costa Rica, Mag. Zarela Villanueva. From left to right: Dante Terrel, Juan Paredes, César Sahuanay, Giammpol Taboada, Mag. Zarela Villanueva, Lourdes Rivera-Santander, Edith Sicha, Miguel Castañeda and Víctor Munte.



Work meeting with Lic. Marjorie Valenzuela, Judge Coordinator of the Model Criminal Court of the II Judicial Circuit of San Jose (Guadalupe).



Presentation by Dra. Jenny Quirós, Coordinator of the Modern Management and Orality Program.



Delegation that visited the criminal judicial office in front of the Judicial Branch of Costa Rica. From left to right. Upper row: Dante Terrel, Víctor Munte, Miguel Castañeda and Giammpol Taboada. Lower row: César Sahuanay, Juan Paredes, Lourdes Rivera-Santander and Edith Sicha.

## **8. IDENTIFICATION OF BEST PRACTICES:**

At the end of each visit, the participant group identified best practices from the justice system of Costa Rica, with possibility to be adapted and/or replicated in Peru.

### **8.1. Observation and study tour to the prosecution office:**

- In Costa Rica, the prosecutor in charge of the investigation is also in charge through the appeal process. Instead, in Peru the appeals are in charge of a superior prosecutor who not necessarily knows the whole case. This measure could be analyzed for its potential replication in the country, and no modification would be needed in the CPC or the Constitution Law of the Public Ministry.
- The relationship between prosecutors and police in Costa Rica is coordinated and is part of working procedures and degrees of functional direction approved in circular jointly issued by the Prosecutor General and the Head of Judicial Investigation Agency. In Peru, the CEICPP has been the forum that allowed the development of a joint work protocol between the National Police of Peru and the Public Ministry, and is part of the Criminal Procedure Reform Consolidation Plan approved by Supreme Decree N° 003-2014-JUS. The opinion of the participants in the tour is that it is necessary to implement this instrument.
- The Electronic Prosecution Offices is an example of the benefit of implementing ICT in the offices. However, there is a previous step that is to raise the work procedures in the institutions involved in criminal justice. In Peru, the Public Ministry has done this mapping, but it is convenient that the other institutions complement the efforts. This need may be seen and promoted through the CEICPP.
- Costa Rica has implemented a “crime in progress” procedure that enables a quick solution to certain cases and downloads the system. In Peru, the CPC provides for the immediate process which is still pending dissemination and promotion at Public Ministry and Judiciary levels.

### **8.2. Observation and study tour to the judicial office:**

- As with the prosecutors, the judges also identified the organization and operation of the flagrance courts as a model of best practices that could be a referral for the Peruvian case. To that end, it would be convenient to take the immediate process provided by the CPC and promote it jointly with the Public Ministry.
- Efficient scheduling of trials and the estimated duration as a whole, not just for each session, with common criteria, are good practices that could be considered as areas for strengthening in the country. These issues will be considered for the technical assistance that the Pro-Integrity Project is providing to the Judiciary in Peru in developing guidelines for the programming and management of hearings in the trial stage.
- In Costa Rica, the trial scheduling, which includes the estimated duration plus notifications and summons, is centralized under the responsibility of a processing judge different to those of trial, with administrative Support. It would be convenient for the Peruvian case to analyze the possibility to implement this figure, especially for courts with higher caseload.
- The use of ICT in the judicial office in Costa Rica offers best practices that should be analyzed to be replicated in the country. Some of them are reduction of the use of paper, electronic notifications, apps to review from tablets and cellphones, and progressive implementation of the digital file.

## 9. Assessment:

At the end of each visit, the participants answered a survey to evaluate topics such as compliance with the objective, positive aspects, and improvement needs.

### 9.1. Observation and study tour to the prosecution office:

The assessment was conducted on October 17, 2014, to seven participants.

Aspect evaluated	Very good	Good	Regular	Bad
General satisfaction with the visit: were the objectives met?	86%	0%	14%	0%
Methodology used	86%	14%	0%	0%
Usefulness of the meetings held	86%	14%	0%	0%
Usefulness of the presentations and materials shown/distributed	86%	14%	0%	0%
Timeliness and compliance of the program	72%	14%	14%	0%
Organization and logistics	86%	14%	0%	0%

#### Positive aspects/topics of the visit:

- Very good attitude of the officers in Costa Rica to give attention to the delegation.
- Excellent work of the Office of Protocol and Image of the Judicial Branch of Costa Rica.
- Learn the reality and procedures with which the anti-corruption and organized crime prosecutors of Costa Rica work.
- Concurrence to hearings.
- "Crimes in progress" and extraordinary shift prosecution offices.
- Information systematization.
- Implementation of virtual files and electronic prosecution offices, working in coordination with the jurisdictional organ.
- Learning the accusatory system of Costa Rica.
- Relationship between the Public Ministry and the Judicial Investigation Organism.
- Efficient relation between the Public Ministry and the judiciary.
- Functioning of the "crimes in progress" and extraordinary shift prosecution offices.
- Handling oral hearings, both its development and organization.

#### Aspects/topics to improve:

- Longer duration of the visit to further some topics, visit areas and inter-act with prosecutors.
- Furtherance of the information systematizing.
- The roundtable with officials in charge of follow-up and monitoring was cancelled.
- Visit other districts to compare best practices.
- Exchange of opinions, judgments, accusations, jurisprudence.
- Would have been interesting to learn about the Judicial Investigation Agency experience.
- Learn about cases meeting Review process.
- Obtain as much study material.
- Learn more about criminal, criminal procedure and constitutional legislation.

## 9.2. Observation and study visit to the judicial office:

The assessment was conducted on November 7, 2014 to five participants.

Aspect evaluated	Very good	Good	Regular	Bad
General satisfaction with the visit: were the objectives met?	60%	40%		
Methodology used	60%	40%		
Usefulness of the meetings held	80%	20%		
Usefulness of the presentations and materials shown/distributed	60%		40%	
Timeliness and compliance of the program	60%		40%	
Organization and logistics	60%	20%	20%	

### Positive aspects/topics of the visit:

- Roundtable with criminal magistrates over the way of work in the criminal area.
- Guided tour to the criminal courts and chambers.
- Access to privileged information on criminal reform.
- Management of hearings and the office.
- Understanding of the criminal procedure reform in Costa Rica compared to the Peruvian one.
- ICT and infrastructure.
- Implications of oral presentation during hearings and when ruling.
- Advantages of the electronic file.
- Observation of criminal hearings.

### Aspects/topics to improve:

- Consider a roundtable with prosecutors and public defenders over the work methodology in the criminal area
- Include visits to police stations.
- Give more time for guided tours to courts and observation of hearings.
- Consider topics of restorative justice.
- More specific topics, such as: forms of hearings, decision making, evidence reasoning.